

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GMA ACCESSORIES, INC.

Plaintiff,

- against -

Civil Action No.: 07CV3219 (LTS) (DF)

CHARLOTTE SOLNICKI,
CHARLOTTE B, LLC,
GIRLSHOP, INC., SHOWROOM SEVEN
STUDIOS, INC., ELECTRIC WONDERLAND,
INC., SHOWROOM SEVEN INT'L, and
SHOWROOM SEVEN

NOTICE OF MOTION

Defendants.

MEMO ENDORSED

PLEASE TAKE NOTICE upon the Declaration of John P. Bostany dated August 4, 2008, and the exhibits annexed thereto, the undersigned hereby moves this Honorable Court, at 500 Pearl Street, New York, New York for an Order (1) pursuant to Rule 45(e) of the Federal Rules of Civil Procedure ("Fed.R.Civ.P.") compelling PORSCHA SUMMERVILLE and SHOWROOM SEVEN to supply documents under penalty of contempt called for in Subpoenae dated November 27, 2007 and May 23, 2008; (ii) for fees associated with the April 10 motion in accordance with Rule 37(a)(4)(A); (iii) for sanctions consisting of the additional fees associated with the violation of the Court's April 15, 2008 Order in accordance with Rule 37(b)(2); and (iv) for such other relief as this court deems just and proper.

Dated: New York, New York

August 4, 2008

In a prior conference, the Court specifically instructed plaintiff that any motion to enforce the subpoena at issue would have to be accompanied by a Memorandum of Law, setting out authority for the enforcement of a subpoena in the present circumstances - i.e., where the claims as to which the subpoenaed evidence was originally said to be relevant had since settled, where there has been no order permitting discovery in aid of a damages inquiry as against any defaulting party, and where, since the date of the subpoena, the complaint has been amended to add new parties - such that the subpoenaed individual would be a party witness, as an officer or employee of a party. As plaintiff's motion has not been accompanied by a legal brief, in disregard of the Court's order, it is deemed without prejudice.

John P.
Bostany

Digitally signed by John P. Bostany
DN: CN = John P. Bostany, C = US,
O = The Bostany Law Firm
Reason: I am the author of this
document
Date: 2008.08.04 19:36:06 -0400

John P. Bostany (JB 1986)
The Bostany Law Firm
Attorneys for Plaintiff
40 Wall Street, 61st Floor
New York, New York 10005
(212) 530-4400

SO ORDERED: DATE: 8/13/08

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DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE